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Comprehensive review of the whole question of peacekeeping operations in all their aspects

The rule of law at the national and international levels

Letter dated 3 December 2007 from the Permanent Representatives of Finland, Germany and Jordan to the United Nations addressed to the Secretary-General

We have the honour to inform you of the outcome of a conference entitled "Building a Future on Peace and Justice" organized by the Hashemite Kingdom of Jordan, Finland and the Federal Republic of Germany, in Nuremberg, Germany, from 25 to 27 June 2007.

Peace and justice are key goals of the work of the United Nations and a number of regional organizations. Institutions and mechanisms designed to achieve justice are acquiring increasing importance worldwide, as the example of the International Criminal Court shows. At the same time, situations in which peace and justice appear to compete with one another are also on the rise. Conflict leaders may accept peace agreements only in return for amnesty. Fragile security, precarious post-conflict power-sharing arrangements and weak institutions may limit the scope for achieving justice. Conflict victims may feel resentful if no one is called to account for their suffering. Peacebuilding may be further complicated if peace/security, justice/rule-of-law and other development priorities have to compete for scarce resources.

From 25 to 27 June 2007, Finland, Germany and Jordan, together with the International Center for Transitional Justice, New York, and the Crisis Management Initiative, Helsinki, in cooperation with the Centre for the Study of Violence and Reconciliation, Johannesburg, the Centre for Peacebuilding — Swisspeace, Berne, the Friedrich Ebert Foundation, Berlin, the Georg August University, Göttingen, and the Working Group on Development and Peace, Bonn, organized an international conference in Nuremberg, Germany, entitled "Building a Future on Peace and Justice", which aimed to contribute to a better understanding of the tensions that may arise in peace negotiations and post-conflict peacebuilding between peace and justice. Starting from a holistic understanding of peace, i.e. including peace, justice, development and institutional reforms, the conference aimed to produce concrete

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recommendations on how to deal with possible tensions between peace and justice. The conference was attended by some 400 participants, including representatives of States and international organizations, practitioners, academics and members of civil society from all over the world. The participation of more than 80 practitioners from developing countries was facilitated through scholarships. The conference was generously supported by the Robert Bosch Foundation, Stuttgart, and the Dräger Foundation, Lübeck.

The conference unfolded in three parts: on the first day, after having listened to a message from the Secretary-General of the United Nations, high-level speakers (Mr. Frank Walter Steinmeier, Foreign Minister of Germany; Mr. Sharif Al-Zu'bi, Minister of Justice of Jordan; Ms. Sonia Picado, Personal Representative of Mr. Oscar Arias, President of Costa Rica, and Mr. Luis Moreno Ocampo, Prosecutor of the International Criminal Court) opened the conference in the historical setting of the Nuremberg Military Tribunal, followed by four panel discussions between eminent personalities in the fields of justice, human rights, conflict resolution, development and gender justice. On the second day of the conference participants engaged in lively discussions in thematically and regionally oriented workshops, for which some 30 studies had been conducted. On its third day, the conference heard a report from the workshops and concluding remarks by the President of the conference, Prince Zeid Al-Hussein, as well as statements by former Finnish Foreign Minister Erkki Tuomioja and German Minister of State Günter Gloser. The conference agreed that the conference organizers should begin to draft a Nuremberg Declaration on Peace and Justice that will translate the conference results into a political document. Further information on the conference and its documentation can be accessed at www.peace-justice-conference.info.

Taking into account the close links between the purposes of the conference and the work of the United Nations, we would be grateful if you would circulate the present letter, together with the conference documents annexed to it, namely (a) an abridged version of the concluding remarks made by Prince Zeid Al-Hussein (the full version can be found on the above-mentioned website) (see annex I) and (b) a joint statement by the organizers of the conference (see annex II), as a document of the General Assembly, under agenda items 34 and 86. We trust that it will be useful in the discussions on these agenda items.

(*Signed*) Kirsti **Lintonen**
Permanent Representative of Finland

(*Signed*) Thomas **Matussek**
Permanent Representative of the Federal Republic of Germany

(*Signed*) Mohammed F. **Al-Allaf**
Permanent Representative of the Hashemite Kingdom of Jordan

Annex I to the letter dated 3 December 2007 from the Permanent Representatives of Finland, Germany and Jordan to the United Nations addressed to the Secretary-General

International conference: "Building a Future on Peace and Justice"
Nuremberg, 25-27 June 2007

Report on the major findings of the conference

Statement by HRH Prince Zeid Ra'ad Zeid Al-Hussein
Ambassador of the Hashemite Kingdom of Jordan to the United States of America
Chairman of the concluding plenary session

Conclusion

(...) Two days ago, during the opening ceremony in the Nuremberg Tribunal, Ms. Sonia Picado, the Personal Envoy of Costa Rican President Oscar Arias, and Mr. Frank Walter Steinmeier, the German Foreign Minister, both mentioned that this conference was likely to accumulate an unprecedented wealth of information on the peace-and-justice dilemma. Their expectation was correct. We are indeed blessed, even overwhelmed, with an incredible amount of information, opinions and advice. It is sometimes a challenge to separate the wood from the trees. So let me try to attempt a brief and certainly incomplete look at the wood.

1. The first point is the most obvious one — sort of the leitmotiv of the conference: justice and peace need not be contradictory forces. While we must acknowledge that the dilemmas are real, a negotiated agreement must build the foundation for both peace and justice. This point was underpinned by generally accepted references to the concepts of sustainable peace, sustainable development and human security. The logical consequence of the complementarity of peace and justice is that the choice is not between some accountability and none, but rather how to build sustainable solutions.

2. The second point is a very basic and commonly accepted one: peace must be understood as "sustainable peace". The silence of the arms, the end of violence and terror, the ability to meet basic needs, public security — these are the expectations of people who have been traumatized by armed conflict and all sorts of brutalities, and therefore these are immensely important categories. But we must not confuse a signature on an agreement, the end of violence and public security with the notion of "sustainable peace".

3. A third point concerns mediation processes. Here, it became clear that mediation happens at many different levels and involves many different actors. It is not just power bargaining between diplomats and the men with guns. At this top level, mediators indeed bear a responsibility to contribute creatively and flexibly to the immediate ending of violence and hostilities with the simultaneous expectation — which is usually part of their own "work ethic" — to promote sustainable solutions. This requires engagement with a broader constituency of civil society, in particular women and traditionally excluded groups, to keep the parties from entering agreements that are, in all likelihood, doomed to failure. The commitment of mediators to the core principles of the international legal order has to be beyond doubt — there is simply no room for blanket amnesties where the core crimes are concerned — and mediators should promote knowledge among the parties about the normative framework so that the parties can make informed choices. However, there should be a clear understanding of the division of labour where the mediator and the prosecutor have distinct roles to play. There was also broad

agreement that mediators needed flexibility and that a degree of ambiguity could provide the necessary scope to address the reality of conflict situations which invariably centre on competing visions of the past. It was also clear that mediation will continue at many points in society after a formal settlement, often going hand in hand with reconciliation.

4. The fourth point is about the notion of justice. As the development of the field of transitional justice has shown, "justice" needs to be — and in fact is — understood in a broad sense. Transitional justice may comprise criminal justice, truth-telling, reparations and institutional reform. The aims should include building trustworthy institutions and addressing marginalization, especially on grounds of gender. Legitimacy is a cornerstone of justice, and means and priorities must be locally defined. All these ideas are now generally accepted, but the challenge is in combining the ingredients of justice in ways that are sensitive to the context of a particular national or regional situation.

5. Here, as a fifth point, I wish to highlight the fight against impunity, culminating in the Rome Statute of the ICC, now ratified by 104 States. This worldwide movement has changed the parameters for the pursuit of peace. There is an emerging norm in international law that amnesties cannot be conceded for war crimes, crimes against humanity or genocide. In any case, the Court will not be bound by amnesties if it has jurisdiction. In addition, there is an emergence of practice at the international level of concentrating on those bearing the greatest responsibility for such crimes. A central feature of the Rome Statute is the principle of complementarity, whereby States have the primary duty to investigate or prosecute those responsible. The precise way in which States implement this duty may vary, but while incentives may be used within the context of criminal prosecutions, amnesty for such crimes is no longer available.

6. Sixthly, in this regard it has sometimes been noted that the pursuit of justice and reconciliation seem to be in tension. However, the workshops have been helpful in demonstrating that the desire for both accountability and reconciliation is common to all continents. Expectations may differ according to social, political and religious context, and views may not be uniform. The "hunger" for justice may vary over time and may grow once worries about survival diminish. But there is broad understanding that accountability and reconciliation can, and in fact do, co-exist.

7. A seventh point is about social, political and economic development. There was general agreement that to deliver on socio-economic justice, transitional justice mechanisms and development efforts should complement each other. In particular, security sector reforms, disarmament and demobilization and the restoration of a State sector that is able to uphold a public order based on human rights and the rule of law are all valid development goals which should not be pursued in isolation. Efforts at intelligent timing of the various steps, and at pacing and upholding international commitments, remain a big challenge.

8. An eighth, more specific point on development: several people argued convincingly that development aspects go beyond the resource and managerial dimension which I addressed in my previous point. Conflict is too often centred on issues of lack of equitable access to social goods. Therefore the mediator should be attentive to future developmental needs in order that the root causes of conflict are addressed from the outset. This is essential in generating a "peace dividend" (in other words: a sentiment of trust in the superiority of the post-conflict order), which is crucial to reconciliation. It is therefore necessary that the United Nations — notably the Secretariat, the Security Council and the Peacebuilding Commission — work on the integration of developmental and justice perspectives into their peace-building strategies.

9. Finally, in conclusion, please allow me a simple yet obvious point. The peace-and-justice dilemma is at its worst when people expect simple solutions to highly complex situations. This conference was not intended to produce blueprints for the resolution of all tensions between the pursuits of peace and justice. But the conference has reminded us that although the pursuit of peace and justice occasionally results in a moral dilemma, those deciding do not act in a moral or normative vacuum. There can be no doubt about the genuine difficulties involved, and the need for compromise within the parameters already described. But by comparing experiences from many places, and by listening to the varied expertise, the conference has demonstrated that while there is no *one* perfect solution, there is a spectrum of available options and creative approaches can be found.

You must have heard most of these points before, but maybe you have never heard them in conjunction, all in a single, multidisciplinary conference, and underpinned empirically on such a broad scale. I hope that this will be remembered as the legacy of this conference. I also hope that the legacy will not just be an oral one, but that it will be recorded in such a way as to have a more lasting impact — for the benefit of mediators, Governments, international and regional organizations.

Annex II to the letter dated 3 December 2007 from the Permanent Representatives of Finland, Germany and Jordan to the United Nations addressed to the Secretary-General

Joint statement by the organizers of the Conference

The topics of "peace" and "justice" were at the heart of discussions between high-level dignitaries and over 300 practitioners from over 80 countries, meeting in Nuremberg from 25-27 June 2007 at the conference "Building a Future on Peace and Justice". In peace negotiations and post-conflict reconstruction and reconciliation processes, the goals of "peace" and "justice" sometimes appear in conflict.

The conference concluded that peace and justice are not contradictory forces. Rather, if properly pursued, they promote and sustain one another. The question should never be whether to pursue justice and accountability, but rather when and how. German Foreign Minister Frank-Walter Steinmeier cautioned that there is no miracle solution for the management of tensions between peace and justice and for a society's recovery from violence and injustice. But he added: "By comparing experiences around the world, the conference will allow all stakeholders — mediators, national actors, international and regional organisations, and international justice mechanisms — to deal with the difficult decisions about peace and justice, of which there will be more in the future, in a more informed and creative manner."

The Jordanian Minister of Justice Sharif Al-Zu'bi said that the pursuit of peace and justice occasionally results in a moral dilemma, but does not occur in a moral or legal vacuum. "The fight against impunity, culminating in the Rome Statute of the International Criminal Court, has set a new framework for the pursuit of peace."

Former Finnish Foreign Minister Erkki Tuomioja said that the organizers were pleased that conference participants had backed a plan to summarize the conference results in a set of political recommendations ("Nuremberg Declaration on Peace and Justice"). This Declaration is meant to ensure that the conference will have a political impact beyond the day. Tuomioja said: "We thank the President of Costa Rica, Oscar Arias, for having accepted to supervise an international team of experts in producing a first draft. We hope to present the draft, after broad consultations, by the first half of 2008."

The conference organizers thanked their partner organizations: the Friedrich-Ebert-Stiftung, the Centre for the Study of Violence and Reconciliation (Johannesburg), swisspeace, the Working Group Peace and Development (Bonn) and the University of Göttingen. They also thanked the distinguished guests at the conference, including Martti Ahtisaari, Afghani Foreign Minister Spanta, Liberian Minister of Justice Johnson and ICC Prosecutor Moreno Ocampo, as well as the many grassroots participants from current or former conflict regions all around the world. All of them have greatly contributed to the high standards, the realism and the authenticity of the conference.

Nuremberg, 27 June 2007